S.B. Civil Writ Petition No.5361/2004
(Ravi Kant Sharma V/s State of Rajasthan & Ors.)

Date of Order : 3/12/2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. K.K. Bissa, for the petitioner/s

Heard learned counsel for the petitioner.

According to the learned counsel for the petitioner, the dispute has already been settled by various orders passed by various authorities and ultimately even the efforts for getting the order of the State Government reviewed were also not successful. The review petition was dismissed and thereafter, even application for restoration of the review petition too was dismissed by the competent authority. According to the learned counsel for the petitioner simply because of change in the Government the respondents are intending to reopen the entire matter and therefore, a notice has been issued by the Executive Officer of the Municipal Board, Shahapura intimating that the matter will again be considered by the State Minister of the Local Self Government on 7th December, 2004.

The learned counsel for the petitioner vehemently submits that the power to review is creation of statute can be exercised only if given under the provisions of law. It is submitted that there is no provision of law which permit the state to review of the order which has been passed under Section 285 of the Rajasthan Municipalities Act. It is submitted that even the earlier review petition has also been dismissed, therefore, there is no justification with the State Government or to the State Minister, Local Self Government to entertain second review petition.

It is settled law that the orders can be reviewed only when the power of review is given by the statute and not otherwise. The power of review is not inherent in the authority who passed the order. Therefore, this objection can be raised by the petitioner before the authority, who is seized with the matter for which the notice dated 16.11.2004 (Annex.-10) was issued to the petitioner. Upon raising objection, the authorities were expected to look into the relevant provisions of law and thereafter pass appropriate order. It cannot be presumed that the authority will not follow the law or ignore the decision of this Court. In view of the above, I do not find any reason to entertain the writ petition under Article 226 of the Constitution of India and the petitioner may raise all objections before the concerned authority and the authority concerned may pass a reasoned order after considering the objections raised by the petitioner.

The writ petition is, therefore, disposed of as initiated above.

(PRAKASH TATIA)J.

Rm/